

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

WENDY DAVIS, et al.,)
Plaintiffs,) CIVIL ACTION NO.
v.) SA-11-CA-788-OLG-JES-XR
RICK PERRY, in his official capacity as)
Governor of the State of Texas, et al.,)
Defendants.)

**DEFENDANT STEVE MUNISTERI'S MOTION TO DISMISS CLAIMS PURSUANT TO
RULE 21**

Defendant Steve Munisteri, in his official capacity as chairman of the Republican Party of Texas (hereinafter “Munisteri” and “RPT” respectively), files this Motion to Dismiss Claims Pursuant to Rule 21, and shows as follows.

1. Munisteri, and his counterpart Boyd Richie (hereinafter “Richie”), chair of the Texas Democratic Party (hereinafter “TDP”), were sued as defendants in this matter by Wendy Davis, Marc Veasey, Roy Brooks, Vicky Bargas, Pat Pangburn, Frances DeLeon, Dorothy Debose, and Sarah Joyner (hereinafter the “Davis Plaintiffs”). The Davis Plaintiffs’ case challenges the redistricting of Texas Senate districts.

2. The facts and legal arguments in this case are substantially similar to those in *Rodriguez v. State of Texas*, (SA-11-CA-635-OLG-JES-XR, consolidated with *Perez v. Perry*, SA-11-CA-360-OLG-JES-XR) in which the Court’s order of Friday, September 2, 2011 (Document Number 285), invited Rodriguez Plaintiffs to revisit whether the political parties were proper Defendants. In response, the Rodriguez Plaintiffs voluntarily dismissed all claims against Munisteri (Document Number 293).

3. Munisteri asserts that he was improperly joined in this case, as none of the claims asserted by the Davis Plaintiffs’ involve actions taken by Munisteri. Munisteri has not asserted

any cross or counter claims in this case. Munisteri has no interests to protect, nor is his presence in this litigation required for this case to be tried.

4. The State of Texas, through its legislature, adopted the redistricting plan of which the Davis Plaintiffs complain, as required by Article III, Section 1 of the Texas Constitution. The Republican Party of Texas, which Mr. Munisteri chairs, will select its nominees for the offices of Texas State Senator in the districts that this honorable Court determines are appropriate, whether they be as adopted by the legislature, or modified by this Court. Munisteri need not be joined in this matter, as there is no claim that he, nor the Republican Party of Texas (or for that matter, the Texas Democratic Party) would do anything but utilize the districts that are determined to be final by this Court under the laws of the State of Texas and the United States of America.

5. Rule 21 of the Federal Rules of Civil Procedure allows the Court, on its own initiative or by motion, to dismiss parties to a case: "On motion or on its own, the court may at any time, on just terms, add or drop a party."

In consideration of the above, Defendant Steve Munisteri, chair of the Republican Party of Texas, hereby moves pursuant to Fed. R. Civ. P. 21, that the Court dismiss all claims by the Davis Plaintiffs against him, that he no longer be a party to this lawsuit, and for such other and further relief for which he may be justly entitled at law or in equity.

Respectfully submitted,

/s/ Donna García Davidson

Donna García Davidson
P.O. Box 12131
Austin, TX 78711
(512) 775-7625
Fax: (877) 200-6001

Eric Opiela
Asst. General Counsel
Republican Party of Texas

Texas Bar No. 24039095
1122 Colorado, Suite 2301
Austin, TX 78701
(512) 791-6336
FAX (512) 250-3102

**COUNSEL FOR DEFENDANT STEVE
MUNISTERI**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Defendant Steve Munisteri's Motion to Dismiss Claims Pursuant to Rule 21 has been sent on October 3, 2011, to the following by the means noted:

Via CM/ECF and Email:

Chad W. Dunn
Brazil & Dunn
FM 1960 West, Suite 530
Houston, Texas 77068
(281) 580-6310
chad@brazilanddunn.com

Attorneys for Texas Democratic Party and Boyd Richie

David J. Schenck
david.schenck@oag.state.tx.us
Matthew Hamilton Frederick
matthew.frederick@oag.state.tx.us
Angela V. Colmenero
angela.colmenero@oag.state.tx.us
Ana M. Jordan
ana.jordan@oag.state.tx.us
Office of the Attorney General
P.O. Box 12548, Capitol Station
Austin, TX 78711
(512) 463-2120
Fax: (512) 320-0667

**Counsel for Defendants State of Texas,
Rick Perry, Hope Andrade, David
Dewhurst, and Joe Straus**

David Richards
Richards, Rodriguez & Skeith LLP
816 Congress Avenue, Suite 1200
Austin, TX 78701
davidr@rrsfir.com

J. Gerald Hebert
J. Gerald Hebert, P.C.
191 Somerville Street, #405
Alexandria, VA 22304
(703) 628-4673
Fax: 202-639-6066
Email: hebert@voterlaw.com

**Attorneys for Plaintiffs Wendy Davis,
Marc Veasey, Roy Brooks, Vicky Bargas,
Pat Pangburn, Frances DeLeon, Dorothy
Debose, and Sarah Joyner**

/s/ Donna Garcia Davidson
Donna Garcia Davidson